

UNITED STATES DISTRICT COURT

Jury demand date: 5-24-72 (pltf.)

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS			
ICEE OF OKLAHOMA, INC., EASTERN OKLAHOMA ICEE, INC., and BILL GUENTHER,		For plaintiff: H. Corky Bishop Bishop & Elder 3223 East 31st Street Tulsa, Oklahoma 74105 <i>582-6139</i> 749-1443 John Oliver Oliver & Oliver 1725 North St. Mary's Street San Antonio, Texas 78212 James R. Warncke Alamo National Building San Antonio, Texas 78205			
VS.		For defendant: Robert W. Finklea (Harry's Fountain) 5217 E. Grand Ave. P. O. Box 11036 Dallas, Texas 75223 Richard B. McDermott (Harry's Fountain) 1300 N.B.T. Bldg. Tulsa, Okla. 74103 (587-0145) Storey, Armstrong & Steger 4100 Republic National Bank Tower Dallas, Tx. 75201 (for Mitchell & and Iceequip Corp.) Fellers, Snider, Baggett, Blankenship & Bailey, 2700 First National Center Ok. City 73102			
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed <i>4-1-72</i>	Clerk	3/1 3-2-72	J. Warncke C.D.No.39	15.00	15 00
J.S. 6 mailed <i>12-1-72</i>	Marshal				
Basis of Action: violation of §4, Clayton Act (15 U.S.C. §15)	Docket fee				
	Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-1-72	Complaint, filed. Summons issued. rm	
3-15-72	Return on service of summons, filed. Served John E. Mitchell Co., Iceequip Corporation, and Harry's fountain Supply Co. through its agent, Harry R. Shuptrine, all on 3-8-72, at Dallas, Texas. (\$10.68)	
3-22-72	Motion of deft. Harry's Fountain Supply Co. to dismiss pltf's complaint, with affidavit of Harry R. Shuptrine, filed. hm	
3-27-72	Answer of def. Harry's Fountain Supply Co., filed. rm	
3-28-72	Motion to dismiss and motion to strike by defts. John E. Mitchell Co. and Iceequip Corporation, filed.	
3-28-72	Brief in support of motions to dismiss and to strike, filed. g	
3-28-72	Pltf. directed to file responsive brief within 10 days. (AEB-J)g	
4-7-72	Plaintiffs' Reply to Motions to Dismiss and To Strike by Defts., John E. Mitchell Co. and Iceequip Corp., filed. v	
4-7-72	Plaintiffs' Brief in Support of Reply, filed. v	
5-15-72	Ordered that Magistrate conduct hearing on motion of deft. Harry's Fountain Supply Co. to dismiss complaint, & motion to dismiss and to strike by defts. John E. Mitchell Co. & Iceequip Corp. (AEB-J)hm	
5-15-72	Hearing held on above motions. Motion of deft. Harry's Fountain to dismiss is sustained; motion to dismiss of deft. Mitchell Co. is denied & motion to strike is sustained. Pltf. given 15 days within which to amend. (Pltf. counsel not present at hearing). Deft. counsel to prepare findings & recommendations within 5 days. (MLB-Mag)hm	
5-16-72	Findings and recommendations of Magistrate, filed. (MLB-Mag)hm (copies mailed)	
5-18-72	Findings and recommendations of magistrate, filed. (MLB-Mag) ds copies mailed.	
5-24-72	Amended complaint, filed, rm	
6-6-72	Order, filed, ^{and entered} that motion to dismiss of defts. Mitchell Co. & Iceequip is denied; motion to strike by same defts. is sustained & pltf. given 15 days to amend complaint; motion to dismiss of deft. Harry's Fountain Supply Co. is sustained and pltf's action & all of their claims against said deft. are dismissed, without prejudice. (AEB-J)hm (copies mailed)	
6-16-72	Motion of defts. Mitchell Co. and Iceequip to dismiss action for failure of pltf. to comply with F & R as confirmed by subsequent order of court, w/brief in support thereof, filed. rm <i>Copy to Magistrate as ordered</i>	
6-16-72	Ordered that pltf's. are granted 10 days in which to respond to defts. Motion to dismiss. (AEB-J)rm - ltr written	
6-19-72	Pltf's' reply to motion to dismiss action for failure to comply with findings and recommendations as confirmed by subsequent order of the court, filed. hm <i>orig to Magistrate</i>	
6-19-72	Brief in support of pltf's' reply to motion to dismiss action for failure to comply with findings and recommendations as confirmed by subsequent order of the court, filed. hm <i>orig to Magistrate</i>	
6-19-72	Second amended complaint, filed. hm <i>orig to Magistrate</i>	
7-11-72	Motion of the Deft.s for order extending time to July 28, 1972, in which to file answer to second amended complaint, filed. v	
7-11-72	Ordered by the Court that Deft.s are granted 30 days to answer second amended complaint. (AEB-J)v -parties notified.	
7-13-72	Motion of pltf's. for leave to file third amended complaint, w/brief in support thereof, filed. rm <i>copy to Magistrate</i>	
7-13-72	Ordered that defts. are granted 10 days in which to respond to pltf. motion for leave to file third amended complaint. (AEB-J)rm-ltr. written	

(Cont)

DATE	PROCEEDINGS	Date Order or Judgment Noted
7-19-72	Motion for extension of time to respond to pltfs' motion for leave to file third amended complaint of defts. Mitchell Co. & Iceequip Corp., filed. hm	
7-31-72	Order granting defts. to 8/1/72 to respond to pltf.'s mo. for leave to file 3rd amended complaint. (AEB-J) rm - copies mailed	
8-3-72	Defts' opposition to motion for leave to file third amended complaint, filed. hm <i>Copy to be made by order</i>	
8-3-72	Brief in support of opposition to motion for leave to file third amended complaint, filed. hm -	
8-7-72	Pltfs' reply brief to defts' brief in opposition to pltfs' motion for leave to file third amended complaint, filed. hm	
8-17-72	Ordered by the Court that defts. are granted 30 days to answer the second amended complaint. (AEB-J)hm (letter written parties)	
8-23-72	Ordered that Magistrate conduct hearing on pltf's motion for leave to file third amended complaint. (AEB-J)hm	
8-23-72	Hearing held on above-mentioned motion. Pltf's motion for leave to file third amended complaint granted & pltf. to prepare findings and recommendations within 5 days. Mag. states that motion is granted with express understanding that there will be no further amendments to the complaint permitted. (MLB-Mag)hm	
8-28-72	Findings and recommendations of Magistrate, filed. (MLB-Mag)hm <i>Copy mailed</i>	
9-11-72	Order, filed, approving recommendations of Magistrate, and granting motion of pltfs. to file third amended complaint. (AEB-J)hm (copies mailed)	
9-11-72	Third amended complaint, filed. hm	
9-21-72	Answer of defendants John E. Mitchell Co. and Iceequip Corp. filed. ds	
10-6-72	Plaintiffs' Interrogatories to the Deft.s, John E. Mitchell Co. & Iceequip Corp., filed. v	
10-11-72	Parties directed to hold pre-trial conference prior to 11-20-72 and file pre-trial order not later than 11-29-72. (AEB-J)hm	
11-8-72	Ordered by the court that case is stricken from pre-trial docket of 11-29-72 at the request of the pltf., to be reset on next pre-trial docket. (AEB-J)hm (letter written)	
11-8-72	Answers of defendants John E. Mitchell Co. and Iceequip Corp. to plaintiff's interrogatories, filed. ds	
11-13-72	Interrogatories propounded to plaintiffs Icee of Okla, Inc. Eastern Oklahoma Icee, Inc. and Bill Guenther by defendants John E. Mitchell Co. and Iceequip Corporation, filed. ds	
11-15-72	Plaintiff's motion to require discovery, filed. ds	
11-15-72	Plaintiff's brief in support of motion to require discovery filed. ds	
11-15-72	Plaintiff's motion to produce, filed. ds	

Continued

DATE	PROCEEDINGS	Date Order or Judgment Noted
11-15-72	Plaintiff's brief in support of motion to produce, filed. ds	
11-15-72	Ordered by the Court that defendant's respond to plaintiff's motion to require discovery and to produce within ten days of this date with a reply brief. (AEB-J) ds	
11-29-72	Response to plaintiffs' motion to produce by defendants John E. Mitchell Co. and Iceequip Corporation, filed. g	
11-29-72	Brief in support of response to plaintiffs' motion to require discovery by defendants John E. Mitchell Co. and Iceequip Corp. filed. g	g
11-29-72	Response to plaintiffs' motion to require discovery by defendants John E. Mitchell Co. and Iceequip Corp. filed. g	
11-29-72	Brief in support of response to plaintiffs' motion to produce by defendants John E. Mitchell Co. and Iceequip Corp. filed. g	
11-29-72	Counterclaim of defendant John E. Mitchell Co. filed. g	
12-18-72	Plaintiffs' answer to counterclaim, filed. ds	
12-29-72	Plaintiff's motion for common trial or consolidation, filed. ds	
12-29-72	Plaintiff's brief in support of motion for common trial or consolidation, filed. ds	
1-4-73	It is ordered by the Court that in view of the fact that parties have announced that 72-C-67 will settle, the pltf's motion for common trial or consolidation is now moot. (AEB-J)hm	
2-22-73	Plaintiff's answers to interrogatories, filed. ds	
5-31-73	Hearing held on motions before U.S. Magistrate. Plaintiff's motion to require discover and plaintiff's motion to produce is sustained in part and overruled in part. Plaintiff to prepare findings and recommendations within 10 days. (MLB-Mag) h	
6-18-73	Brief in Support of Discovery of Deft's Financial Status, filed. jj	
8-6-73	Findings and Recommendations of Magistrate, filed. jj copies mailed	
8-13-73	^(objection) Brief of def. John E. Mitchell Co. & Iceequip in response to F&R, filed. rm	
8-16-73	Pltfs' brief in reply to defts' brief on propriety of pltfs' interrogatory No. 4, filed. hm	
8-29-73	Response to Pltfs' Interrogatories, filed by Deft.s. v	
8-31-73	Defendants' brief in opposition to discovery of most recent balance sheets, filed. ds <i>to MLB</i>	
10-11-73	Letter, filed, from MLB-USMag to counsel of record. Mag. concludes that Deft.s ans. Pltf.s' Interrog. No. 4, & further concludes that Parag. 2 of Pltfs' Mot. to produce be sustained. H. Corky Bishop, for Pltf. is to prepare F&R w/order for Judge. (MLB-USMag)v	
11-19-73	Findings and Recommendations of Mag., filed. v -0-	

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D. C. 110A Rev. Civil Docket Continuation

9

DATE	PROCEEDINGS	Date Order or Judgment Noted
12-7-73	Order affirming and adopting in part and overruling in part the findings and recommendations of the magistrate filed Aug. 6, 1973. (AEB-J) ds	<i>ds</i>
12-7-73	Order affirming and adopting findings and recommendations of the Magistrate filed November 19, 1973, filed. ds (AEB-J)	<i>Mailed</i>
12-19-73	Response to plaintiffs' interrogatories & mot. to produce, filed.g	
1-9-74	MO: Parties are directed to hold PT conference prior to 2-11-74, & file PT order not later than 2-22-74. (AEB-J)v -notices mld.	
1-21-74	Response to Plaintiff's Interrogatories filed. e	
2-14-74	Pltf's Mtn. in Limine, filed. jj	
2-14-74	Brief in Support of Pltf's Mtn. in Limine, filed.jj	
2-14-74	MO: It is order by the Court that deft. is granted 10 days to respond to pltf's Mtn. in Limine. (AEB-J)jj	
2-21-74	Proposed Pre-Trial Order, filed by Pltfs. v	
2-22-74	Proposed pre-trial order by defts., filed. g	
7-1-74	Order, filed, sustaining plaintiffs' motion in limine, (AEB-J)g	<i>copied, mailed</i>
8-19-74	Case set for non-jury trial on 11-11-74, at 9:30 A.M.(AEB-J)b	
10-21-74	Motion of plaintiffs to dismiss, filed. g	<i>etj</i>
11-7-74	Order of dismissal, filed and entered, that cause of action and complaint are dismissed w/prejudice, each party to bear their own costs. (AEB-J)rm - copies mailed	

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